

Exhibit 51

**Transcript of the Testimony of
Kenneth Palinkas**

Date:

June 19, 2018

Case:

STATE OF TEXAS vs UNITED STATES OF AMERICA

Kenneth Palinkas

June 19, 2018

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS, BROWNSVILLE DIVISION
3 - - - - - x
4 STATE OF TEXAS, et al,
5 Plaintiffs,
6 -against-
7 UNITED STATES OF AMERICA, et al,
8 Defendants.
9 - - - - - x

10 Case No. 1:14-cv-00254
11
12 26 Federal Plaza
13 New York, New York
14 June 19, 2018
15 1:00 p.m.
16 DEPOSITION of STATE OF TEXAS BY THE
17 WITNESS KENNETH PALINKAS, a Plaintiff herein, held
18 at the above place and time pursuant to Subpoena,
19 taken before Ephraim Jacobson, a shorthand
20 reporter and Notary Public within and for the
21 State of New York.

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1 APPEARANCES:

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2 A. No, I did not.

3 MR. LEVIN: No further questions. Thank
4 you.

5 EXAMINATION BY

6 MR. BITTER:

7 Q. I have a few questions. For the record,
8 Adam Bitter for the Texas Attorney General's
9 office. Thank you for being here, Mr. Palinkas.
10 You went through a couple of issues with the other
11 counsel. I just want to address a few of those
12 with you. You were asked some questions about the
13 approval rate of DACA applications. Do you recall
14 that?

15 A. Yes.

16 Q. Is that a concern of yours regarding the
17 DACA program?

18 A. The approval rate, yes, because the
19 concern is that they're not being properly
20 adjudicated.

21 Q. Was does that approval rate indicate to
22 you?

23 A. Again, that they're being rubber
24 stamped, which is what I made -- which I stated
25 in -- in both my original and my later statement

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2 that I made.

3 Q. What is that opinion based on?

4 A. The approval rate itself, because it's
5 still quite high. It doesn't seem like there's
6 enough -- whether there's not enough room for
7 denials for the officers or it's just the rate is
8 extremely high compared to any other application
9 that I am aware of in USCIS.

10 Q. Are you basing your opinion with respect
11 to the approval rate on your experience with
12 USCIS?

13 A. Yes, I am.

14 Q. How so?

15 A. In accordance with any other form that
16 I'm aware of that I've adjudicated or that I'm
17 aware of that gets adjudicated. For instance at
18 the service centers or at our own field offices,
19 through discussion with various individuals who
20 work throughout the country.

21 Q. You were asked some earlier about
22 applications being sent to service centers. Did
23 you recall being asked about that?

24 A. Yes.

25 Q. Is that a concern of yours with respect

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2 to the DACA application process?

3 A. Yes.

4 Q. Why is that a concern of yours?

5 A. Again, since the DACA application is
6 based on an illegal entry into the United States,
7 the children of these people that enter illegally,
8 once you break the law it kind of -- that red flag
9 goes up and these people should be closely vetted,
10 more so than somebody who's just applying for a
11 benefit, because they've already committed a
12 crime, and when somebody commits a crime against
13 the United States, certainly that needs to be
14 taken into consideration. It's not like they just
15 filed an application that they felt they were
16 eligible for. They broke the law. They
17 circumvented existing immigration law that's been
18 on the books for years. That's the concern.

19 Q. Is it your understand that a
20 application, whether DACA or others, is reviewed
21 differently at a service center versus a field
22 office?

23 A. Absolutely, because you can get so much
24 more information from doing an in-person interview
25 versus adjudicating paper.

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2 Q. Are applications that are reviewed in
3 service centers -- strike that.

4 Do applications that are reviewed
5 through service centers include an in-person
6 interview component?

7 A. No.

8 Q. How did you have that understanding?

9 A. Because a service center does not
10 interview, period. They never have.

11 Q. Is the lack of in-person interview a
12 concern of yours?

13 A. Not for every application, but certainly
14 for a DACA application.

15 Q. Why is that?

16 A. Again, as I have stated previously, when
17 somebody breaks the law and then applies for a
18 benefit, I don't think that they should not --
19 they should bypass being interviewed. I think
20 they need to be more scrutinized in the process.

21 Q. I want to ask you a question about what
22 has been marked Exhibit C, the earlier
23 Declaration. If you can go to Paragraph 10 on
24 Exhibit C. I'll give you a chance to look it
25 over. I just have a question to you about

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2 information on any kind of considerable basis,
3 would that be a concern of yours?

4 A. Yes, it would.

5 Q. Why is that?

6 A. Because it -- that leads to the premise
7 of going back to rubber stamping, where there's
8 not enough meat and potatoes in that application
9 and there wasn't enough vetting done where the
10 guidelines that are given by USCIS, the bare bones
11 of following those guidelines were implemented
12 rather than to do a more in-depth analysis of that
13 application.

14 Q. Just one last set of questions. In your
15 answers with Ms. Perales, you indicated that you
16 have not adjudicated any DACA applications; is
17 that correct?

18 A. That's correct.

19 Q. The opinions that you've offered in this
20 case with respect to DACA, are those based on your
21 experiences as a USCIS officer?

22 A. They're based on my experiences as a
23 USCIS officer in conjunction with discussions I
24 have had with fellow officers concerning DACA
25 applications.

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2 Q. Are they based on your role with the
3 unions?

4 A. Yes, they are partially based on my role
5 with the unions and as a USCIS officer.

6 Q. Are those based on your leadership roles
7 in the union?

8 A. Yes, they are.

9 MR. BITTER: I have no further questions
10 for you.

11 EXAMINATION BY

12 MR. ROBINS:

13 Q. This is Jeffrey Robins. I'm going to
14 ask you a few followup questions. Thank you again
15 for your time, Mr. Palinkas.

16 Are you an attorney?

17 A. No, I'm not.

18 Q. As an Immigration Services Officer, are
19 you trained in immigration law?

20 A. Yes, we are.

21 Q. Did you earlier testify that you're
22 specifically trained in immigration law related to
23 the benefit applications that you're adjudicating?

24 A. Yes, we are.

25 Q. That testimony is you currently

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2 CERTIFICATE

3 I, Ephraim Jacobson, a shorthand
4 reporter and Notary Public within and for the
5 State of New York do hereby certify:

6 That the witness whose testimony is
7 hereinbefore set forth was duly sworn by me, and
8 the foregoing transcript is a true and accurate
9 record of the testimony given by such witness to
10 the best of my ability.

11 I further certify that I am not related
12 to any of the parties to this action by blood or
13 marriage, and that I am in no way interested in
14 the outcome of this matter.

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Ephraim Jacobson

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